



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

ANNUAL REPORT 2013

Submitted in accordance with Massachusetts General Laws Chapter 149, §14



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Program Highlights for 2013

Asbestos Program

On-site safety and health visits, including active and inactive worksites	344
On-site safety and health visits, active worksites only	192
Hazards identified	195
Licenses issued	4,049
Civil administrative penalties	Written warnings: 18 Civil citations: 0 Civil citations w/penalty: 19 License summary suspensions: 5 Cessation Orders: 3 Civil Appeal Hearings: 5 Fines assessed: \$46,400 Fines collected: \$15,731

The DLS Asbestos Program is responsible for the regulation of occupational asbestos exposure in the Commonwealth. The program works with employers, employees, unions and state and local agencies to create healthier and safer work conditions for Massachusetts workers through site visits, analytical services, and technical information. The program also aids in the coordination of OSHA, EPA and multi-state regulatory authorities along with the Consortium of North East States (CONES) with the common goal of protecting the public from long term damage from excessive asbestos exposure.

During 2013, the Asbestos Program continued the work of one of its most ambitious initiatives, which began in 2011 when DLS started identifying those schools regulated by the Asbestos Hazard Emergency Response Act (AHERA) which pose a greater risk of exposure to asbestos fibers to students, teachers, and staff. On a monthly basis, DLS identified schools which had abatement work planned and sent to the schools a checklist and packet of information about the records that are required to become part of their asbestos management plans. In 2013, DLS sent 284 packets to schools to remind them of their record-keeping requirements with regard to their management plans under AHERA.

Also during 2013, DLS restructured the way in which it notifies schools of their AHERA violations. In its Written Warnings/Orders to Correct, DLS began a new procedure to prioritize the violations which have the greatest risk of exposure to students, faculty, and building occupants. Those violations are now listed in order of exposure risk so that the schools can immediately understand what measures should be corrected first.

Civil Enforcement

DLS continued to cite contractors for violations of the Employment Agency Law (M.G.L. c. 140, sec. 46A-46R), and Asbestos and Lead regulations (454 CMR 6.00 and 454 22.00). In 2013, DLS issued \$112,350 in civil penalties, and, after hearings and settlements, collected \$45,150 of the civil penalties assessed in 2013.

In March of 2013, DLS contracted with a debt collection agency to recover unpaid civil penalties, some of which date back to 2010, when DLS first started issuing monetary fines. Twenty-two entities have been referred to the debt collection agency, with a total of \$42,375 in unpaid civil penalties. Many of these entities have paid their debt in full or are making payments incrementally to pay down the balance. DLS has instituted a process for all unpaid penalties to go into debt collection.

Division of Apprentice Training

Sponsor verifications issued	1,154
New sponsors registered	82
Graduation certificates generated	805
Total active apprentices	5,782
Total sponsors	846
Sponsor visits by compliance officers	1,612
New apprentices	2,416
Renewed apprentice IDs	2,987
Veterans registered	234
Total FY13 apprentice wages	\$69,140,347.00
Total MA state taxes paid @ 5.3% avg.	\$3,664,438.00
Total federal taxes paid @ 13.09% avg.	\$9,050,471.20

The Division of Apprentice Training (DAT) was established in 1945 and, as authorized by Chapter 23 of the Massachusetts General Laws, is the state approving agency for all registered apprentice education and training programs. The division also registers veteran training facilities for the Veterans Administration so that veterans registered in apprentice programs can receive their GI Bill benefits.

Registered apprenticeship is a formalized, structured program combining on-the job learning and related classroom instruction in which paid employees receive technical and practical training in a highly skilled occupation. The apprentice is paid according to a progressive schedule for wage increases over the term of the apprenticeship. Registered apprenticeship, in simple terms, is a program of “earn as you learn”, and is voluntary.

The division issues an annual apprentice ID card to each registered apprentice. In order for an employer to be able to reduce the wages of an employee on a prevailing wage project to pay them the apprentice rate, that employee must be an apprentice registered with the DAT. Pursuant to Chapter 149, a copy of the apprentice ID must be attached to each certified payroll when that apprentice is working on any prevailing wage project.

DAT is responsible for developing materials and conducting a program of public awareness to secure the adoption of training in skilled occupations and related training policies and practices used by employers, unions, and other organizations; developing policies and plans to enhance opportunities for minority and female participation in skilled training; and coordinating the effective use of Federal, State, business, and organized labor resources to create a clear training-to-employment corridor for customers of the workforce development system. DAT engages in partnership activities, ensuring quality service and customer satisfaction.

Notable Accomplishments

- **Newly developed state run veteran apprentice program** - DAT worked with the Department of Career Services (DCS) to establish a Disabled Veterans Outreach Program (DVOP) apprentice program so that veterans can receive GI Bill benefits while in training. This program has established the DCS as a training facility for GI Bill purposes.
- **National Recognition** – Deputy Director David Wallace was elected President of the National Association of State & Territorial Apprentice Directors (NASTAD). As part of his responsibility he was named to the U.S. Department of Labor (DOL) Advisory Committee on Apprenticeship (ACA) and participates in quarterly meetings in Washington DC.
- **Regulations and Statutory Amendments** – On November 23, 2010, the Massachusetts Division of Apprentice Training submitted an application for continued recognition as a “Registration Agency” for Federal purposes for the Commonwealth. The Office of Apprenticeship completed its review of DAT’s application and issued a letter, dated November 9, 2011, granting continued recognition of the DAT as the Registration Agency, conditioned on the Commonwealth completing a “corrective action plan” as outlined in the letter. The US DOL raised due process concerns regarding the provisions in 453 CMR 7.09 which permit the DLS to suspend the ability of a registered program to register new apprentices. It was also noted that our State Apprenticeship Council lacked representation from the public which is required under the federal regulation. The proposed regulations remedy the deficiencies raised and delete redundant language, thus increasing the readability and transparency of our Apprenticeship Regulations. They will also modernize the apprentice model by allowing sponsors to change the way they administer their programs. For example, the criteria for completion of a registered program has moved from a rigid time-based learning program requiring 2,000 hours of work experience to three pathways: competency-based, time-based or a hybrid approach.

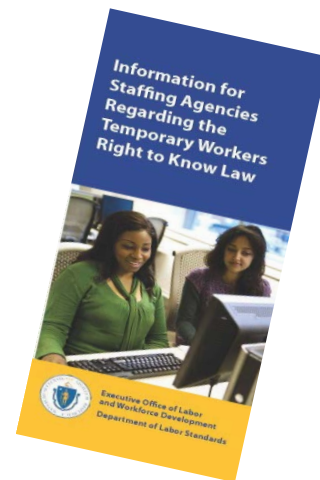
In addition to the federally prescribed legislative and regulatory changes, DLS proposes to make additional amendments to the apprentice statute to: (1) change the name of the division from “Division of Apprentice Training” to “Division of Apprentice Standards;” (2) exclude any veteran who is collecting GI Bill benefits through an apprenticeship program from the apprentice ID fee and (3) eliminate the \$35 apprentice identification card fee in statute to permit the Executive Office for Administration and Finance to set the ID fee.

At the close of 2013, new draft regulations and statutory amendments were drafted and plans for filing were coming together.

Employment, Placement, and Staffing Agencies Program

On-site visits	398
Professional licenses and registrations issued	1,264
Civil administrative penalties	Written warnings: 24 Civil citation w/civil penalty: 3 Cessation Order: 1 Notice of Non-Compliance: 1 Fines assessed: \$1,850 Fines collected: \$1,550

In 2013, DLS changed the name of the Employment Agencies Program to the Employment, Placement, and Staffing Agencies Program to more accurately reflect the expanded authority of the program which acquired the administration and interpretation of the new Temporary Workers Right to Know Law (TWRKL). The TWRKL was signed into law by Governor Patrick in August of 2012 and became effective on January 31, 2013. In the beginning of January, DLS re-vamped its website and created compliance assistance materials in anticipation of the law's effective date. On January 28, 2013, DLS sent an e-mail to 1,567 licensed and registered agencies informing them of the TWRKL, and their obligations under the new law. On January 30, 2013, DLS mailed a letter and a copy of the TWRKL notice of workers' rights to 1,637 licensed and registered agencies informing them of the new law. A sample job order was created to assist staffing agencies in their compliance obligations to inform workers of certain information about each new assignment under the law. The job order was translated into four languages and fillable versions were also created and made available. The notice of workers' rights, required to be posted by all staffing agencies, was translated into six languages and made available in two different sizes downloadable from the web.



DLS began incorporating compliance with TWRKL into its inspections of staffing agencies after January 31st. For staffing agencies found to have compliance issues, DLS issued a written notice that identified TWRKL deficiencies with a deadline to correct. Later in 2013, DLS began copying the Attorney General's Office, who is responsible for enforcing the TWRKL, on these written notices.

In the latter part of 2013, DLS hired a bilingual compliance officer fluent in Spanish and English, who has already proven to be helpful in speaking with temporary workers and advocacy groups to gather information on unsafe, unlawful working conditions and unregistered placement agencies.

Lead Program

On-site safety and health visits, including active and inactive worksites	1,130
Outreach for Lead-Safe Renovation/RRP	915
Hazards identified	621
Licenses issued	Deleading Licenses: 592 Moderate Risk: 246 Renovator Licenses: 397
Deleading/Lead-Safe civil administrative penalties	Written warnings: 13 Civil citation: 1 Civil citation w/civil penalty: 22 License denials: 0 Cessation orders: 11 Citation appeal hearings: 9 Fines assessed: \$64,100 Fines collected: \$27,869

The goal of DLS's Lead Program is to reduce the incidence and severity of lead exposures for Commonwealth workers and other members of the general public. DLS accomplishes this goal by administering and enforcing standards for renovation, repair and painting carried out in older homes and child-occupied facilities that may contain lead paint as well as for deleading operations. During 2012, DLS inspectors visited 98% of the state's local building departments in order to speak with the building inspectors, explain our requirements under our Lead-Safe Renovation standard, and offer our assistance in being a resource to them. In 2013, DLS continued to visit the building departments to reinforce our commitment to reducing lead exposure to workers and building occupants by enforcing and promoting lead-safe renovation.

In partnership with the U.S. Environmental Protection Agency (EPA), DLS developed a countertop display that maintains our mutual Lead-safe Renovation theme, along with an informational postcard for property owners, and a "buckslip" that DLS has requested building inspectors to attach to their building permit applications. As DLS has gone back to the building departments, building inspectors are welcoming the displays and are more willing to contact us with issues related to renovation work when it appears that non-Lead-Safe work practices exist on a job site.



DLS continued to meet with stakeholders to receive comment on how our program is administering the Deleading and Lead-safe Renovation regulations. DLS spent a good part of 2013 drafting amendments to its lead regulations to keep pace with changes the EPA made in their parallel Renovation, Repair, and Painting (RRP) regulations. In November and December,

DLS held two roundtable meetings with interested parties and listened to their comments regarding proposed regulatory changes. DLS anticipates holding public hearings in early 2014.

During 2013, DLS continued to make refinements to its data system launched in 2012. In yet another technological improvement, DLS, in collaboration with the Department of Public Health – Childhood Lead Poisoning Prevention Program (CLPPP), created an online deleading notification system. The system allows entities that are performing deleading work to submit the required job notifications online, rather than by fax or mail. The deleading notification form is now simultaneously emailed to the DLS and CLPPP and can also be emailed to local boards of health. This new system brought much-needed efficiency to the deleading notification process for both the regulated entities and for the regulators.

DLS has developed electronic forms for its asbestos and lead inspections, which are used on a tablet PC. Once downloaded into our license database, the contractor license, site information and violations will be attached to the entity being inspected, creating a file which can be electronically retrieved. This will make it easier to maintain inspection and citation histories on the licensed and unlicensed entities we inspect. DLS expects that this system will be fully integrated in early 2014.

At the end of 2013, DLS began creating an online notification system for training providers which will replace handwritten or printed forms that training providers are required to send us. Under the present system, DLS must manually enter data sent to us from training providers. With the launching of online forms, the information will get loaded directly into the licensing database and attached to the appropriate licensee. DLS expects that this notification system will be fully implemented and in use in early 2014.

Mine Safety and Health Program

On-site safety and health visits	2
Hazards identified	16
Training sessions conducted	14
Workers trained	769

The Mine Safety and Health Program is administered in Massachusetts by DLS in cooperation with the U.S. DOL, Mine Safety and Health Administration (MSHA). Under 30 CFR Part 56, safety and health standards are required to be in place for all surface metal/non-metal mines throughout the nation. Initial and annual refresher training of all mining employees is required by 30 CFR Part 46. These requirements apply to the approximately 150 mining operations in Massachusetts. The operations in Massachusetts include sand and gravel pits, crushed stone operations, and quarries. For many years, efforts by DLS were focused on preventing injuries and illnesses by conducting site inspections and providing training for employees. During 2013, DLS was notified of a 65% reduction in funding from MSHA to administer this program. Due to the loss of federal funding, DLS committed only to providing the worker training and was not able to perform the site visit inspections as in prior years.

The projected goal for 2013 was to train a total of 650 mine workers and contractors in Part 46 annual refresher training. During 2013, DLS conducted thirteen trainings and participated in a training sponsored by a large mining operation. As a result of these efforts, a total of 677 miners and 92 contractors were trained, which accounted for 118% of our projected goal. Two

compliance assistance visits were conducted. Subsequent to the compliance assistance visits, a report was written for each mine operator, documenting the findings and making recommendations in relation to health and safety.

Occupational Hygiene Laboratory

Lab samples, analyses, and controls processed	1,911
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The Occupational Hygiene Laboratory (the Lab) conducted Stereomicroscopy/Polarized Light Microscopy on 176 suspect asbestos samples in 2013. samples were generated by DLS staff and 49 samples were submitted from local boards of health and/or unions.

The Lab reorganized due to staffing changes during 2013. One long-time analyst retired just prior to the beginning of 2013, and DLS's Senior Chemist, Lab Supervisor and Program Manager reduced his hours to part-time for the last six months of 2013. In order to maintain the exceptional performance of the Lab's identification and quantification of asbestos bulk samples, two asbestos analysts, Michael Kissel and Robert Nicotera, participated in a comprehensive asbestos identification course at the McCrone Institute in Chicago, IL in March 2013. A full-time laboratory analyst, Daniela Frasca, joined DLS in April to provide analytical support, oversee quality control/quality assurance protocols, and to help attain American Industrial Hygiene Association (AIHA) accreditation.

Notable Accomplishments

Since moving into the Department of Environmental Protection (DEP) Wall Experiment Station, an operation that adheres to a strict code of responsible laboratory practices and procedures while being situated in a LEED Platinum rated facility, the Lab now operates with increased awareness of hazardous waste accumulation and storage as well as safety and health requirements within the Lab and in the areas we utilize.

The asbestos-related AIHA requirements have been identified and implemented throughout the analytical process and only need to be recorded and documented accordingly with the Standard Operating Procedure (SOP) and DLS Quality Control Manual once all testing is complete.

The Lab has completed Atomic Absorption Spectroscopy (AAS) instrument validation and Lead-Air method validation. The method development stage was time consuming during the year, since it was not uncommon to run hundreds of samples to complete the process in a satisfactory manner.

Occupational Lead-Poisoning Registry

Blood Lead Level	Reports	Individual (Peak Level)	New Cases
15-24	481	n/a	n/a
25-39	197	109	89
40-49	23	10	6

50-59	7	6	4
60+	5	3	2

n/a: THESE LEVELS COULD NOT BE DETERMINED BECAUSE THEY ARE NOT ENTERED INTO DATABASE PROGRAM AND ARE REPORTED MANUALLY

In 1990, the Occupational Lead Registry Law (M.G.L. Chapter 200) was enacted in Massachusetts. The Occupational Lead Poisoning Registry (Registry) was created because occupational exposure to lead is a major cause of disease. Excessive exposure to lead can cause serious damage to the blood, kidneys, nervous and reproductive systems and is also known to cause cancer. Occupational lead poisoning is still common in the United States despite the availability of effective control technologies and the existence of state and federal regulations designed to limit exposure.

The Registry tracks elevated blood lead levels, provides educational counseling and guidance to workers, and through its medical consultant, offers advice to physicians on the medical management of lead poisoning.

Notable Accomplishments

Education and Outreach - During 2013, the Registry updated and disseminated education and outreach materials to a multi-cultural worker population, including Spanish and Portuguese speaking workers. Revised lead awareness materials were translated and produced in Greek—specifically designed for seasonal bridge painters. These new Registry materials also include updated medical guidelines and medical evaluations from the Center for Disease Control-National Institute for Occupational Safety and Health and the Consortium of State and Territorial Epidemiologists (CSTE) and were provided to health care providers for patients who were exposed to lead paint.

Electronic Data Sharing and Reporting - The Registry had preliminary discussions with the MA Department of Public Health (MADPH) CLPPP to share medical reporting information via a Healthy Housing and Lead Poisoning Surveillance System (HHPSS) in use by other states. This electronic reporting system, which is being implemented at CLPPP, will help maintain blood lead reporting requirements for the Commonwealth and the Centers for Disease Control (CDC). CLPPP will collect adult blood lead data that will be part of their database and adult blood reporting could potentially be forwarded to the Lead Registry. Efforts to finalize electronic reporting will continue in 2014.

The Registry maintained an annual contract with the CDC-NIOSH to collect and report lead data to the CDC Adult Blood Lead Epidemiology and Surveillance (ABLES) group. The ABLES group consists of states that contract with the CDC to report blood lead levels on an annual basis. The Registry, as a member of the ABLES group and the CSTE, joins all ABLES states and CSTE members throughout the country who demonstrate their dedication and commitment to occupational safety and public health.

As part of the CDC ABLES contract in June 2013 DLS's Environmental Engineer, who oversees the Registry, represented DLS as an active member of the Council of State and Territorial Epidemiologists (CSTE) at the CSTE annual conference in Pasadena, California. The ABLES group met in 2013, in part to approve the ABLES States Management Guidelines For Blood Lead Levels in Adults. These guidelines provide critical recommendations based on blood lead levels for health care providers throughout the country.

In 2013, the ABLES states, including Massachusetts, lost all federal funding from the CDC/NIOSH due to federal sequestration. Even though funding was lost, Massachusetts has pledged to maintain the role it has provided over the years since the Registry was created, fulfilling its statutory requirement.

Blood Lead Reporting - In the summer of 2013 and in accordance with Registry protocol, the Registry referred 2 bridge painter cases to OSHA for follow-up based on elevated blood lead reports. In both cases, the workers performed bridge painting and related construction. OSHA has investigated these cases and will provide a report in the near future. Since the initial referral, the Registry has tracked and reported to OSHA additional workers who have high blood lead levels from these bridge work sites.

Occupational Safety and Health Statistics

Injury and illness employer surveys completed	4,551
Injury and illness worker cases completed/coded	8,213

The mission of the Occupational Safety and Health Statistics Program is to support continued improvement of workplace environments by compiling and presenting data to employers, employees, researchers, industry professionals, and policy-makers, so that these data can be used to devise strategies to reduce occupational injuries and illnesses. DLS administers the Annual Survey of Occupational Injuries and Illnesses (SOII) for all private-sector and public-sector industries, trades, and occupations. This survey, conducted in partnership with the U.S. Department of Labor, Bureau of Labor Statistics (BLS), provides detailed information on injuries and illnesses in the workplace. In December, all program employees took part in a BLS training called Encountering and Addressing Reluctance. This provided valuable tools for new employees who are not yet versed in handling varied interactions with our client base of SOII respondents. Program staff also attended the annual BLS National Training held in Oklahoma City, OK. Topics included: Best Survey Practices, Occupational Injury and Illness Classification System (OIICS) 2.01 overview and training, Frame Refinement training, and Targeted Employment Industries (TEI) Setting training.

Due to changes to the federal government budget, the department did not collect data for the OSHA Data Initiative (ODI) in 2013. The ODI, which had been administered by DLS for well over a decade, is on hold until further notice.

Beginning in 2013, in place of the ODI survey, the department began administering the Prevailing Wage, Normal, and Common Practices Survey, which determines the prevailing wage and common practices among the Massachusetts agricultural employer community. The survey is conducted annually at the direction of the Massachusetts Departments of Labor Standards and Career Services, and in conjunction with the U.S. DOL Employment & Training Administration (ETA). The survey results assist in ensuring that both U.S. and foreign workers receive fair and equitable treatment by agricultural employers. Approximately 2,100 surveys were mailed to Massachusetts growers at the end of October and were collected until the end of December; a second mailing was sent in mid-December. DLS received the following results:

- 775 responses, which calculated to be a 36.9% response rate (note that employers are not mandated by law to respond to this survey).
- Received 146 in-scope survey responses which will be used to determine prevailing wage and practices.
- Confirmed approximately 217 farms within the survey universe are now considered out-of-business.
- Confirmed out-of-scope status for approximately 400 farms within the survey universe.

In addition to the survey program work, staff of the OSHS Program continued to be engaged in both the Occupational Health Surveillance Program and the Executive Order 511 Advisory Committee.

On-Site Consultation Program

Trainings conducted	39
On-Site safety and health visits	543
Hazards identified (serious)	4,372
Other than serious (OTS) hazards identified	167
Interventions conducted / on and off-site technical support	48

Consultation Visits: The primary goal of the OSHA Consultation Program is to conduct on-site OSHA consultation visits to private employers in the Commonwealth. The Massachusetts Consultation Program (Consultation Program) goal for the number of visits in FY13 was 492 visits. The program exceeded the goal by 51 visits conducting 543 visits. The program identified over 4,300 serious workplace hazards, removing 53,221 workers from serious risk. Four companies were referred to OSHA Enforcement for not abating serious hazards. During 2013, the Consultation Program consisted of one administrative person, six industrial hygienists, five safety experts and one trainer.

Credit for the success of the Consultation Program goes to the dedication and hard work of the consultants and administrative staff, evidenced by their recent recognition by the Commonwealth of Massachusetts. In May, the consultants/administrative staff received a Performance Recognition Award for outstanding performance. Program staff members were also called upon to provide guest lectures in classes at Tufts University College of Medicine and UMass Lowell Business School.

Training and Outreach: The OSHA Consultation Program partnered with the OSHA Andover and Springfield offices to conduct an outreach effort in Residential Fall Protection, the program's largest outreach ever. The project involved compiling a list of all Massachusetts licensed roofing contractors, building inspectors and roofing supply companies. Each one of the 775 addresses on the list were visited by a consultant/compliance officer and given information on a series of six free training seminars on Fall Protection for Residential Construction. The distribution of the information was performed by eleven consultants and five compliance officers who were coordinated to deliver informational seminar flyers on the same week. While disseminating the flyers, 20 active job sites were visited and 28 workers were removed from fall hazards, the second leading cause of workplace injury and leading cause of death in construction in the U.S.

The seminars were offered at a variety of locations throughout the state and were held from 4:00 to 5:30PM, after the construction workday, to encourage participation. The audiences received a presentation, hands-on demonstrations of appropriate fall protection equipment, instructions on applicability to general and specific situations, and an open discussion. The purpose of the seminars was fourfold: (1) to educate the target audience about OSHA's enforcement of fall-related standards; (2) to update the target audience on OSHA's Residential Fall Protection standard; (3) to demonstrate to the target audience various fall protection devices and techniques; and (4) to allow the target audience the opportunity to ask questions relative to their specific application(s).

In total, 347 contractors and employees attended the training seminars. This project was modeled after a similar outreach effort conducted in the spring of 2012. That project was successful in training 337 individuals. Over the two year period, 684 construction workers in Massachusetts have been trained on the importance and the requirements of fall protection.

During 2013, the Consultation Program offered a total of 8 OSHA 10-hour classes, 2 in General Industry and 6 in Construction, educating 260 individuals. As a result of a cooperative effort that was initiated by the Consultation Program with U.S. DOL/OSHA and other state agencies, the OSHA 10-hour in Construction is now provided to every vocational school student in the construction trades. Lastly, program staff remained involved with the Construction Safety Roundtable of Eastern Massachusetts and provided training on the Hazards of Electrical and Overhead Power Lines to 100 employers.

Promotion and marketing of the Consultation Program is a constant ongoing effort. In 2013, the program partnered with Massachusetts Department of Fire Services (DFS) to distribute promotional brochures during fire inspections. Program staff also participated in exhibit booths at various trade shows/conferences to promote the program and to provide valuable safety information to employers. During 2013, the program had a presence at the New England Conference of Occupational and Environmental Medicine, New England Grows, Massachusetts Electrical Contractors Association Conference, and the Northeastern Roofing Contractors Association (NERCA). At the New England Grows Conference the program distributed 100 landscape booklets. These booklets were prepared by the Consultation Program in order to explain the required OSHA written model programs and information relevant to the landscaping industry, such as hazard communication, respiratory protection, noise, silica, trenching, personal protective equipment and recordkeeping. These booklets, while providing valuable information, give employers the information they need to contact the program for assistance.

Safety and Health Achievement Recognition Program (SHARP): The Consultation Program maintained a total of 12 SHARP sites during 2013. SHARP recognizes small business employers who operate an exemplary injury and illness prevention program. Acceptance of an employer's worksite into SHARP is a sign of achievement that singles out companies from their peers as a model for worksite safety and health.

Prevailing and Minimum Wage Programs

Prevailing Wage schedules issued	16,178
Opinion letters issued for prevailing and minimum wage	6
Minimum Wage waivers issued	142
Wage program information line requests and resolutions	4,192

The Massachusetts Prevailing Wage Laws establish minimum wage rates for workers on public construction projects, workers engaged in school bus transportation, operators of vehicles and equipment engaged by public entities for public works purposes (including solid waste and recycling), workers engaged by employers that provide janitorial services for state buildings, and office moving services and for certain employees of housing authorities. DLS is the agency responsible for issuing prevailing wage rate sheets (which contain hourly wage rates that workers must be paid), and interpreting and administering the Prevailing Wage Law. DLS also administers the Commonwealth's Minimum Fair Wage Law and Regulations, which address not only the payment of the basic minimum wage but also overtime; the minimum wage for tipped employees; reporting pay; on-duty or on-call time; travel time and expenses; deductions for lodging, meals, and uniforms; and wage records that employers are required to keep.

During 2013, DLS filed an amicus curiae letter brief with the Massachusetts Supreme Judicial Court (SJC) in a Prevailing Wage case. The SJC ultimately dismissed the case. DLS was a party or participant in three other cases in the superior court, all of which were dismissed or settled, and a court of appeals case, which is pending a decision.

Compliance Assistance – In the fall of 2013, DLS updated its overview of the Blue Laws section on its website, streamlining many questions pertaining to Sunday and Holiday pay. During the holiday season there is a spike in questions from businesses and employees about how the Thanksgiving and Christmas holidays affect employment-related operations.

During the course of the year, DLS gave two Prevailing Wage presentations for the Office of the Inspector General's Massachusetts Certified Public Purchasing Official class. DLS also gave Prevailing Wage presentations for the Associated Builders and Contractors organization (ABC), the building and construction trades unions, the Massachusetts Buys EXPO for public procurement officers, and attended a number of trade conferences related to its prevailing and minimum wage programs. DLS also continued active participation in the Interstate Labor Standards Association (ILSA), including attendance at the annual conference in Salt Lake City, Utah and regional conference, and updated state wage information for the U.S. DOL database. At the 2013 annual conference, DLS Director Heather Rowe was elected Vice President of ILSA for 2014.

Advisory Opinions –DLS issued a Minimum Wage advisory opinion interpreting the Fair Labor Standard Act, including providing guidance on the exempt status of several positions, and five Prevailing Wage letters on the following topics:

- Cash fringe payments and permissibility of certain deductions
- Construction by private, non-profit organization lessee of a public building
- Prevailing Wage application to pre-fabrication work
- Clarification of setting trash/recycle collection wage rates pursuant to Section 27F (non-construction),
- Prevailing Wage application to owner operators

Trench Work Violations

During 2013, DLS inspectors stopped at 7 trenching operations and observed hazardous working conditions. When hazardous conditions are observed, DLS contacts company supervisors, local building departments, and our own Workplace Safety and Health Program (WSHP) to contact the proper persons required to correct the unsafe conditions. Due to the varied elements of involvement in trenching operations (public land; private land; public employees; private contractors; local, state, and federal enforcement jurisdictions), DLS issued a trench intervention flowchart for agency use:

Public Hazard		Worker Hazard	
<u>Observation:</u> An unattended trench is not blocked by a cover or fence.		<u>Observation:</u> A worker is currently inside a trench without cave-in protection, and trench meets criteria for cave-in protection.	
<u>Who:</u> Private or Public Contractor (utilities are exempt)		<u>Who:</u> Private Contractor	<u>Who:</u> Public Employees
<u>Enforced by:</u> Local authority		<u>Enforced by:</u> OSHA	<u>Enforced by:</u> DLS
<u>DLS Action:</u> <ul style="list-style-type: none"> • Call WSHP staff. WSHP will make a courtesy phone call to local permitting authority (ie. Inspectional services, building commissioner, DPW) about Jackie's Law 520 CMR 14.00. • If urgent public safety issue, call local police. 		<u>DLS Action:</u> <ul style="list-style-type: none"> • Request worker to exit trench. • Request cave-in protection. • Explain that you are not OSHA, but that OSHA has trench regulations that require cave-in protection. • If contractor refuses, you can call Mary Dozois who may refer the site to the local OSHA office. 	<u>DLS Action:</u> <ul style="list-style-type: none"> • Request worker to exit trench. • Request cave-in protection. • If crew is uncooperative, call WSHP staff. • WSHP will call municipal superintendent about cave-in protection. • WSHP will issue a Written Warning for lack of cave-in protection.
<u>Case File Tracking:</u> WSHP will track referrals to Dept Public Safety.		<u>Case File Tracking:</u> Mary Dozois will track referrals to OSHA.	<u>Case File Tracking:</u> Mary Dozois will track Public Sector sites.

Workplace Safety and Health Program

On-site safety and health visits:	165
Hazards identified	693
Training sessions conducted	82
Workers trained	1,350
Cases resolved (both phone & investigation letters)	169
Phone / e-mail inquiries	1,475

The mission of the Massachusetts Workplace Safety and Health Program (WSHP) is to prevent job-related injuries and illnesses among the Commonwealth's public sector workers and assist federal agencies in promoting health and safety in selected areas in the private sector. The program accomplishes all of its responsibilities through investigation, assessment, education, technical assistance, outreach and targeted enforcement by a team of occupational safety and health specialists. The program staff is fervent in its daily work knowing that safe and healthy workplaces promote a robust economy, stable society, steadfast governmental service delivery, sound family units and valued individuals. The program's vision is a Commonwealth where preventable workplace injuries and illnesses are eliminated. To accomplish this in the short term, the program responds to incidents and requests and promotes effective health and safety management among targeted entities. To bring long-term change to fruition, staff members educate and support workers, employers, advocates and decision-makers in health and safety standards which protect workers from preventable harm. Staff members also provide education relating to the methods necessary to ensure that these standards are followed in the workplace.

During 2013, the WSHP maintained efforts in line with a strategic plan to reduce work-related injuries among public employees. WHSP has made an effort to focus activities on areas where work-related injuries occur. The strategic plan has four main goals:

- Goal 1 Reduce injury rate for public sector workers.
- Goal 2 Promote development of Safety and Health Management Systems at public sector workplaces.
- Goal 3 Promote compliance with DLS programs and M.G.L. standards for worker safety and health (Right to Know; Heat; AHERA; MSHA; Occupational Lead Registry).
- Goal 4 Promote compliance with industry standards in public sector workplaces

Safety and health regulations for public employees in Massachusetts

Safety and health regulations for both public and private sector employees were written before 1970, when the Occupational Safety and Health Act (OSHA) went into effect for private sector workers. Accordingly, private employers conducting work on any public or private worksite are required to follow OSHA safety and health standards outlined in 29 CFR 1910 and 29 CFR 1926. Municipal workplaces in Massachusetts, excluded by federal OSHA coverage, are covered by Mass General Laws Chapter 149, section 6. Municipal employers who comply with OSHA and other nationally recognized safety and health standards are considered to be in compliance with the intent of Chapter 149, section 6.

Asbestos Hazard Emergency Response Act (AHERA) “Asbestos in Schools Rule”

- Revised written warning format for DLS inspection reports to improve comprehension by users, such as administrators, teachers, and parents. Information is now provided in a clear and consistent manner across school districts in order to explain reasons for warnings and detailed corrective actions required. These changes will ensure that school administrators can more easily identify and implement corrective measures that will have an immediate impact on reducing exposure risk for children, school staff, and other building occupants.
- Developed new violation descriptions using plain English, and minimizing technical terms in order to improve understanding and utility for school administrators, custodians, teachers, and parents.
- Updated technical outreach materials to provide constructive tips for targeted audiences, such as superintendents, designated persons, and consultants to assist schools in complying with the regulation. DLS posted outreach and guidance materials on our website and will continue to improve and post future guidance materials as they become available.

State and municipal workplace activity by WSHP

- Cross-trained WSHP and Lead/Asbestos Enforcement staff on procedures for trench inspections and follow-up.
- Partnered with state Americans with Disability Act (ADA) coordinators to offer ergonomic assessments.

Worker Right-to-Know (RTK)

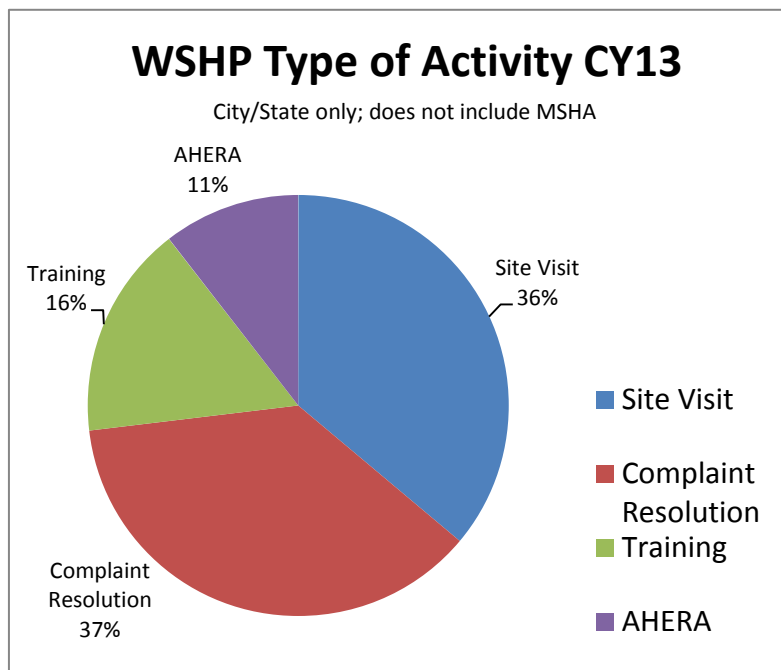
- Third party RTK registrations were processed, maintained, and posted to DLS website.
- DLS technical outreach material, including the RTK poster, was updated to reflect changes in the OSHA Hazard Communication Standard. Training material was sent to each school superintendent and DPW superintendent.

Municipal workplace activities

In calendar year 2013, WSHP conducted: 80 inspections at municipal sites, of which 41% were based on work-related injury; 85 site visits at state agencies; 82 training sessions; 48 AHERA inspections or trainings; and facilitated 168 complaint resolutions.

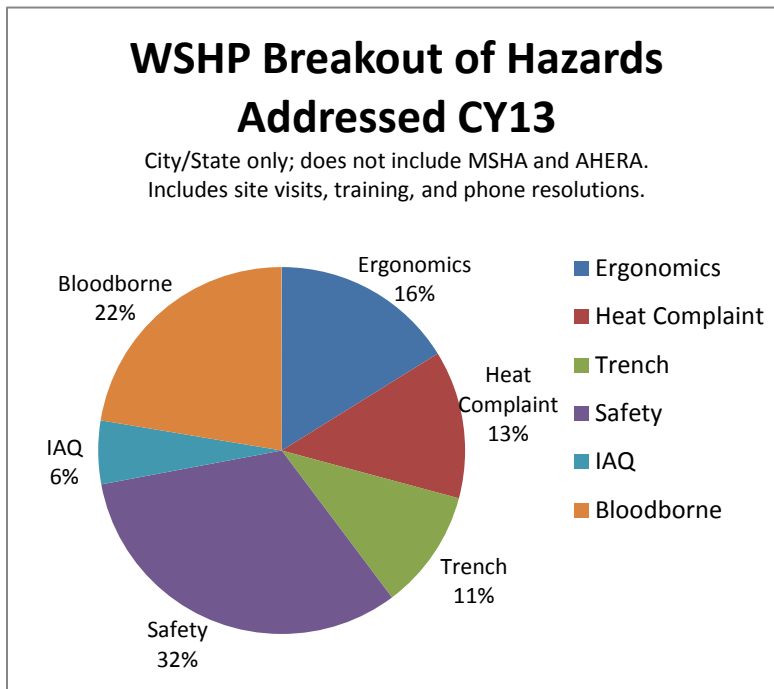
The following projects were completed to reduce the work-related injury rate in the municipal sector:

- Revised inspection and report format: Issued Written Warnings with Order to Correct to towns in response to inspections conducted after employee injury or trench activity



without cave-in protection.

- **Representative site inspections:** in 2013, site inspections were conducted in various types of municipal workplaces including: wastewater treatment plants; public works garages; public works highway departments; sanitary landfills; municipal airports; municipal light and power departments; and schools.
- **Targeted technical outreach toward accident patterns:** Technical resources were developed



that corresponded to tasks that cause high injury pattern: lifting; slip, trip and fall; aerial lifts and office ergonomics. Groundwork on two other high-pattern injuries—workplace violence and work zone safety—was also begun.

- **WSHP poster for public employees:** A poster was developed and distributed to cities and towns explaining employer and employee responsibilities, and the role of DLS in inspection and enforcement.

State Workplace Activities

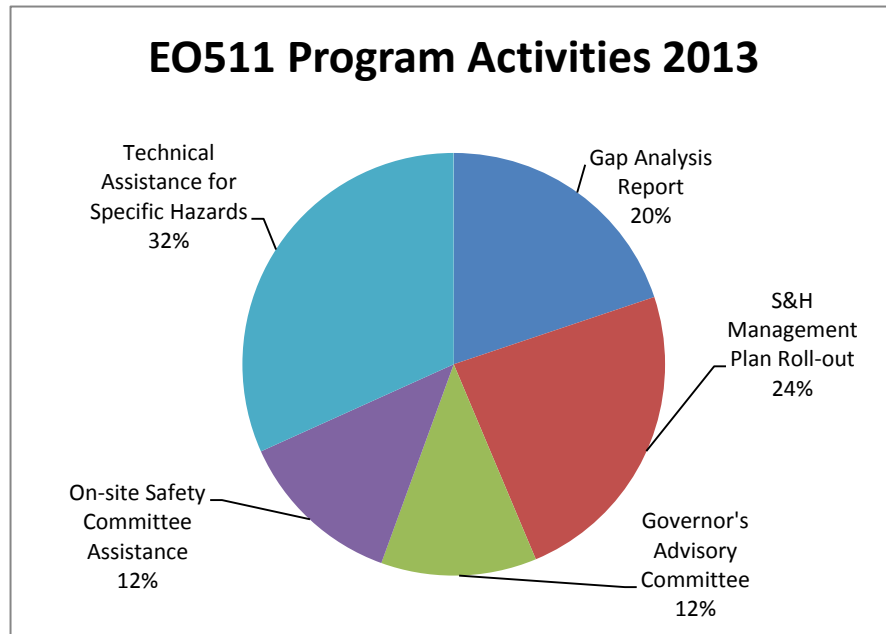
The Executive Order 511 (EO511)—*Establishing the Massachusetts Safety & Health Advisory Committee*—program staffed by Hilary Hackbart enjoyed continued success. The program has increased communication and sharing of safety knowledge among state agencies.

In 2013, WSHP focused on accident investigation and promotion of safety and health management systems for both municipal and state workplaces.

- **EO511 Governor's Advisory Committee:** DLS coordinated this joint labor-management committee which is co-chaired by EOLWD and HRD.
- **EO511 Annual Report:** The report contained injury cost data and injury patterns for each Secretariat. Staff conducted extensive research and writing for the development of the first EO511 Annual Report which is planned for release in 2014.
- **Secretariat Safety and Health Management Plans:** EO 511 required each Secretariat to develop a written Safety and Health Management Plan. WSHP staff developed a template and guided secretariats toward completion. The plans included a review of injury costs and

patterns, and introduced a structure for accountability and communication.

- EO511 Gap Analysis Report: Comments from individual safety committees were centralized into a Gap Analysis Report. The report provided direction for areas of improvement among local agencies.
- Wiki Site: DLS developed a Wiki site for state agencies to share safety resources. DLS populated the site with dozens of resources to assist state agencies in implementing their safety and health programs.



DLS Application Fee Schedule 2013

TITLE	FEE	SURCHARGE ¹	SURCHARGE ²	TOTAL
Employment Agencies				
Licensed Employment Agency (one to four counselors)	\$250		\$50	\$300 per year
Licensed Employment Agency (five or more counselors)	\$500		\$50	\$550 per year
Registered Placement Agency (main office)	\$250		\$50	\$300 per year
Registered Placement Agency (each branch office)	\$130		\$50	\$180 per year
Right to Know Program				
Third Party Instructor/Consultant Registration	\$20			\$20 annual
Training Seminar Attendance Fee	\$50			\$50 per person
Asbestos Abatement				
Asbestos Abatement Contractor	\$2,000		\$50	\$2,050 annual
Asbestos Abatement Certifications				
Supervisor	\$200		\$25	\$225 annual
Management Planner ³	\$600		\$25	\$625 annual
Inspector ⁴	\$600		\$25	\$625 annual
Project Designer	\$600		\$25	\$625 annual
Project Monitor	\$600		\$25	\$625 annual
Analytical Services	\$700		\$50	\$750 annual
Training Provider	\$1,700		\$50	\$1,750 annual
Asbestos Abatement Worker License	\$50		\$25	\$75 annual
Asbestos Abatement Duplicate License	\$20		\$25	\$45 per License
Asbestos Abatement Duplicate Certification	\$20		\$25	\$45 per Certification
Lead Abatement				
Deleader Contractor License	\$500	\$25	\$50	\$575 annual
Deleader Supervisor License	\$100	\$25	\$25	\$150 annual
Deleader Certification-Training Provider	\$1,700	\$25	\$50	\$1,775 annual
Deleader Duplicate License	\$20		\$25	\$45 annual
Deleader Worker License		\$25	\$25	\$50 annual
Lead-Safe Renovator Contractor License	\$100	\$25	\$250	\$375 every 5 years (includes the \$50 surcharge for the 2 nd through 5 th years of the license)
Lead-Safe Renovator Training Provider	\$1,700	\$25	\$50	\$1,775 (fee waived for State, federally recognized Indian Tribe, local government or non-profit organization; \$75 surcharge still applies)
Lead-Safe Renovator Duplicate License	\$20	\$25		\$45 annual
Blood Lead Test	\$20			\$20 per test

Minimum Wage Program				
Seasonal Wage Certificate for Residential and Day Camps	\$100			\$100 per person
Special Wage Permit for Sheltered Workshops, Employees with Disabilities in Community Employment, and Student Waivers	\$100			\$100 per year
120 Days Seasonal Permits for Overtime Exemptions	\$200			\$200 per season
Approval for Employee Uniform Deposits and Waivers	\$100			\$100 per year
Division of Apprentice Training				
Sponsor Fee	\$300			\$300 per employer/year
Apprentice ID card	\$35			\$35 per apprentice/per year
Dispensing optician apprentice application	\$40			\$40 per apprentice (one-time fee)
Sponsor verification	\$50			\$50 per employer / per request

¹ All persons licensed to perform deleading services are required to pay a \$25.00 surcharge in accordance with section 22 of Chapter 482 of the Acts of 1993, which reads in relevant part: "Amounts raised by said surcharges shall be deposited into a retained revenue account hereby established for the department of public health, for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, as required by section one hundred and ninety-two B and section one hundred and ninety-seven A of chapter one hundred and eleven of the General Laws, and for training of lead paint inspectors as well as homeowner training for those aspects of lead paint abatement or containment which the department, through regulations, authorizes homeowners to perform themselves. The department shall use amounts in said retained revenue account for the aforesaid purposes and for no other, without the need for further appropriation."

² In accordance with Section 212 of chapter 184 of the Acts of 2002, these surcharges shall be collected for the purpose of conducting "occupational safety and health inspections, assessment and other operations as required by [the statutes governing lead abatement, asbestos abatement, and the regulation of employment agencies]."

³ A person applying for certification as an Asbestos Inspector and as an Asbestos Management Planner at the same time need pay only one fee (including surcharges).

⁴ See footnote 3.

NOTE: Fees for Employment Agencies, Right-to-Know, Asbestos, Lead, and Minimum Wage have been established by the Executive Office for Administration and Finance pursuant to 801 CMR 4.02, the Massachusetts regulation governing Fees, Licenses, Permits and Services to be Charged by State Agencies. Fees for Apprentice Training have been set in accordance with M.G.L. c. 23, §11W and sections 636-639 of Chapter 26 of the Acts of 2003.

Agency Funding and Revenue Generation

FY14 Funding (July 1, 2013-June 30, 2014)	
State Appropriation	\$ 2,005,243.00
Retained Revenue	\$ 452,850.00
DAT VA Program	\$ 70,193.00
DAT Card Trust	\$ 187,765.00
ELW IT Budget (DLS share)	\$ 37,000.00
Mine Safety and Health Administration (MSHA)	\$ 23,263.00
Bureau of Labor Statistics	\$ 63,400.00
Adult Blood Lead Levels Surveillance	\$ 19,500.00
TSCA Asbestos Licensing and Monitoring	\$ 168,000.00 ¹
TSCA Lead Licensing and Monitoring	\$ 360,000.00 ²
OSHA Data Initiative	\$ 36,924.00
OSHA Onsite Consultation	\$ 1,328,000.00

Calendar Year 2013 (January 1, 2013-December 31, 2013) Revenue Collected by DLS	
Blood Lead Testing	\$0
Surcharges	\$268,670
Applications for Minimum Wage Waivers for Day Camps	\$11,300
Applications for Minimum Wage Waivers for Special Wage Permits	\$1,600
Applications for 120 day Seasonal Permit for Overtime Exemption	\$12,500
Applications for Employee Uniform Deposits and Waivers	\$400
Civil Fines	\$78,267
Applications for Employment Agency Licensure & Registration	\$329,375
Applications for Lead Discipline Licenses (including RRP)	\$197,382
Applications for Asbestos Discipline Licenses	\$1,067,929
Miscellaneous (DLS)	\$1,720
Third Party Right-to-Know instructors	\$280
Sponsor Verifications	\$60,115
Sponsor Certifications	\$151,235
Dispensing Optician Application Fees	\$3,405
Apprentice ID Cards	\$209,635
Miscellaneous (DAT)	\$140
TOTAL	\$ 2,393,953

¹ US EPA grant on a two-year budget cycle; funding represents one year of a two-year grant award.

² US EPA grant on a two-year budget cycle; funding represents one year of a two-year grant award.

DLS FTE Count from June 2005-December 2013 (FY05-FY14)

During 2013, DLS backfilled two management positions: General Counsel / Manager of Wage Programs, and Manager of Safety and Health Programs. A Research Analyst for the Occupational Safety and Health Statistics Program and a Compliance Officer for the Employment, Placement, and Staffing Agencies Program were also backfilled. An Environmental Engineer was added to the Workplace Safety and Health Program staff and was filled by an internal DLS employee. This move opened an opportunity in the Consultation Program; the successful candidate was another DLS employee. During the latter part of 2013, DLS was interviewing candidates for an Environmental Engineer for the Consultation Program and an Industrial Safety and Health Inspector for Lead and Asbestos; these positions are expected to be filled during the first quarter of 2014. The department experienced two retirements during calendar year 2013.

FY	Date	FTE
FY14	7/1/13	51.0
FY13	12/1/2012	54.6
FY13	7/1/2012	51.6
FY12*	10/1/11	53.0
FY12*	6/18/11	52.8
FY12*	3/26/11	51.8
FY11	12/18/10	44.8
FY11	9/25/10	44.2
FY10	6/19/10	47.2
FY10	3/27/10	49.0
FY10	12/19/09	49.0
FY10	9/26/09	47.7
FY09	6/20/09	51.7
FY09	3/28/09	51.1
FY09	12/20/08	52.4
FY09	9/27/08	53.0
FY09	7/5/08	51.0
FY08	6/21/08	51.8
FY08	3/29/08	52.3
FY08	12/22/07	52.3
FY08	9/29/07	52.9
FY07	6/23/07	52.9
FY06	6/24/06	52.4
FY05	6/25/05	53.1

*NOTE: IN FY12, the former Division of Apprentice Training (DAT) was merged with the former Division of Occupational Safety (DOS) to form the Department of Labor Standards (DLS). DAT accounted for 7.0 FTEs on 3/26/11, 6/18/11, and 10/1/11, adding to the DLS FTE counts of 44.8 on 3/26/11; 45.8 on 6/18/11; and 46.0 on 10/1/11.

DLS Employees During Calendar Year 2013

Administration

Heather Rowe, Director
David Wallace, Deputy Director
Patricia DeAngelis, General Counsel
Jean Zeiler, General Counsel
Anh Bungcayao, Legal Counsel
Barbara Shultze, Administrative Assistant

Apprenticeship Training

Ivanusa DosSantos, Office Support Specialist
Rita Gill, Program Coordinator
Henry Mattuchio, Compliance Officer
Madeleine McGuire, Compliance Officer
Francis Mooney, Compliance Officer
Lorraine O'Connor, Administrative Assistant

Investigations and Enforcement

Brian Wong, Manager
Avelina Correia, Industrial Safety & Health Inspector
Ligia Martinez, Compliance Officer
Michael Monfredo, Industrial Safety & Health Inspector
Alexander Murphy, Industrial Safety & Health Inspector
Michelle O'Leary, Industrial Safety & Health Inspector
Jennifer Pak, Compliance Officer
Garry Pharris, Industrial Safety & Health Inspector
Rebecca Reese, Compliance Officer
Jared Saunders, Industrial Safety & Health Inspector
Patricia Sutliff, Environmental Engineer

Licensing and Regulation

James Dello Russo, Program Coordinator
Nathan Landers, Office Support Specialist
Ozelle Rivera, Administrative Assistant

Prevailing and Minimum Wage

Kathleen Coyne, Program Coordinator
Stephen Falcone, Administrative Assistant

Safety and Health Programs

Michael Flanagan, Manager
Robert Kenrick, Manager
Imani Bishop, Research Analyst
Jean Cho, Industrial Safety & Health Inspector
Kevin Clarke, Industrial Safety & Health Inspector
Stephen Dagle, Industrial Safety & Health Inspector
Donald Delikat, Environmental Engineer
Mary Dozois, Environmental Engineer
Kathryn Flannery, Environmental Engineer
Daniela Frasca, Forensic Scientist
Maxine Garbo, Environmental Engineer
Hilary Hackbart, Environmental Engineer
Susan Humphreys, Administrative Assistant
Michael Kissel, Environmental Engineer
Justin Krassner, Industrial Safety & Health Inspector
Sarah Ladin, Research Analyst
Marvin Lewiton, Environmental Engineer
Jon Lifvergren, Industrial Safety & Health Inspector
Jean Manoli, Environmental Engineer
Janet McKenna, Environmental Engineer
Robert Nicotera, Environmental Engineer
Lou Penella, Industrial Safety & Health Inspector
Arthur Pennesi, Environmental Engineer
Paul Petrowski, Industrial Safety & Health Inspector
Priyal Shah, Research Analyst
Susan Shepherd, Environmental Engineer
Michael Weakley, Environmental Engineer
Rebecca Wilkof, Research Analyst